

ORDINANCE NO. (XXX-2023)

TC-19-21 USE STANDARDS – PROTECTIVE YARDS

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO RELOCATE PROTECTIVE YARD REQUIREMENTS ASSOCIATED WITH CERTAIN LIMITED USES IN CHAPTER 6 “USE REGULATIONS” TO SECTION 7.2.4. “PROTECTIVE YARDS”

WHEREAS, the Unified Development Ordinance currently houses all “Use Standards” associated with Limited Uses in Chapter 6 of the Unified Development Ordinance; and

WHEREAS, the Unified Development Ordinance currently prohibits the Board of Adjustment from granting variances to “Use Standards” associated with Limited Uses; and

WHEREAS, the Unified Development Ordinance currently lists any specific landscaping and screening requirements associated with a “Limited Use” as “Use Standards”; and

WHEREAS, the Unified Development Ordinance currently allows for the Board of Adjustment to consider granting variance relief from Neighborhood Transitions which similarly contain landscaping and screening requirements and for the Appearance Commission to approve design alternates thereto; and

WHEREAS, the City Council finds it in the public interest to allow for property owners to seek variance relief from the protective yard requirements associated with these “Limited Uses” by relocating those requirements for the specific limited uses listed herein from Chapter 6 of the Unified Development Ordinance and moving them into Chapter 7 of the Unified Development Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. The following sections of the part 10 Raleigh Unified Development Ordinance, Use Standards, which specifically contain landscaping/screening requirements for certain uses shown below, are hereby amended by deleting the following sections from Chapter 6 Use Regulations and renumbering the sections accordingly:

6.3.1.D.2.e. and 6.3.1.D.2.f. for School, Public or Private (K-12).

6.3.1.E. Use Standards for All Other Civic Uses.

6.3.3.C.2.d.ii.d. and 6.3.3.C.2.d.ii.e. for Telecommunication Tower (less than 250 feet).

6.3.3.D.2.f. and 6.3.3.D.2.g. for Telecommunication Tower (250 feet or more).

6.4.1.C.2.c. and 6.4.1.C.2.d. for Daycare Center.

6.4.7.A.2.b. Parking Use Category.

6.4.9.C.2.b. Animal Care (Outdoor).

6.4.11.C.4.a. Vehicle Fuel Sales (including gasoline and diesel fuel) in a NX-, CX-, DX- or IX-District.

6.4.13.B.1. and 6.4.13.B.2. Vehicle Sales Use Category.

6.5.1.C.2.b. and 6.5.1.C.2.c. Towing Yards for Vehicles.

6.5.5.B.1.d., 6.5.5.B.1.e., 6.5.5.B.1.f., Self-Service Storage facility in an CX- District.

6.5.5.B.3.c., 6.5.5.B.3.d., 6.5.5.B.3.e. Self-Service Storage facility in an IX- District.

6.5.5.B.4.e. Self-Service Storage facility in an OP- District.

6.5.6.C.2.a. Vehicle Repair (Minor).

6.5.6.D.2.a. Vehicle Repair (Major).

6.5.6.E.2.a. Vehicle Repair (Commercial Vehicle).

6.5.7.B.1. and 6.5.7.B.2. Warehouse and Distribution Use Category.

6.6.2.B.1., 6.6.2.B.2., and 6.6.2.B.3. Resource Extraction.

Section 2. Section 6.1.4. of the Part 10 Raleigh Unified Development Ordinance, Allowed Principal Use Table, is hereby amended by changing any “L” designation (Limited Use) in the rows of said table to a “P” designation (Permitted Use) for the following specific uses:

“Civic, except as listed below:”; and

“Warehouse and Distribution”

Section 3. Section 7.2.4.A.1.a. of the part 10 Raleigh Unified Development Ordinance, Transitional Protective Yards, is hereby amended by adding the following language as shown underlined and removing the language shown in strikethrough as follows:

a. For specific uses as set forth in ~~Chapter 6 Use Regulations~~Section 7.2.4.E. (type as specified); and

Section 4. Section 7.2.4.B.1.a. of the part 10 Raleigh Unified Development Ordinance, Street Protective Yard, is hereby amended by adding the following language as shown underlined and removing the language shown in strikethrough as follows:

a. For specific uses as set forth in ~~Chapter 6 Use Regulations~~Section 7.2.4.E. (type as specified); and

Section 5. Section 7.2.4. of the Part 10 Raleigh Unified Development Ordinance, Protective Yards, is hereby amended by adding the following subsection to the end of the section:

E. Use-Specific Requirements

1. Animal Care (Outdoor)

a. A Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along any exterior areas used to exercise, walk, or keep animals that abut a residential use.

2. Civic Uses in a Residential or Manufactured Housing District- Other than Cemeteries, Colleges, Community Colleges, Universities and Schools, Public or Private (K-12)

a. A Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along any side of the property abutting a residential use.

3. Day Care Center in a Residential District

- a. A Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along any side of the property abutting a residential use.
- b. A Type C2 street protective yard (see Sec. 7.2.4.B.) must be established along all property lines abutting a public right-of-way.

4. Parking Use Category in all Residential Districts, RX-, OP- and IH- Districts

a. Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along any side of the property abutting a residential use.

5. Resource Extraction Use Category

- a. A type B3 transitional protective yard with a berm (see Sec. 7.2.4.A.) must be established along all outer perimeter property lines except where the property abuts an IH District or is used for industrial uses listed in Article 6.5. Industrial Uses.
- b. For lawful resource extraction facilities established prior to September 1, 2013 that adjoin uses other than household living as listed in Sec. 6.2.1., existing woodland vegetation at

least 25 feet in width may be used, in whole or in part, to satisfy the transitional protective yard, provided any gap in woodland vegetation 20 feet or more in width shall be planted with evergreen hollies that have a mature height of at least 25 feet tall.

- c. A type C4 street protective yard with a berm (see Sec. 7.2.4.B.) must be established along all property lines abutting a public right-of-way.
- d. Except for properties in an IH District or used for industrial uses listed in Article 6.5. Industrial Uses, there shall be provided between overburden storage areas and adjoining properties not owned or leased by the operator, (a) walls, closed fences, berms or any combination equal or greater in height than the height of the overburden or (b) planted vegetation containing the following characteristics:
 - i. Newly planted landscaping shall be of the following varieties: loblolly pine, genetically improved stock, Japanese cryptomeria ‘Yoshino’ and ‘Nellie Stevens’ holly;
 - ii. Newly planted pine trees shall be planted double filed with a linear triangle configuration with 20 foot spacing. Yoshino and Nellie Stevens shall be installed in the middle of the tree plantings, with at least 25 percent of each variety being planted; and
 - iii. The planted pine trees shall be at least 6 feet tall and the planted Yoshino and Nellie Stevens shall be at least 4 feet tall.
- e. Existing woodland vegetation, at least 25 feet in width, which meets or exceeds the screening characteristics of the planted material may be used, in whole or in part, to satisfy the vegetative planting requirements.
- f. If planted or existing vegetation is used to screen the overburden, the overburden may not exceed a height of 70 feet or other City ordinances, whichever is more stringent.
- g. A property shall be considered “adjoining” if it is separated from the area where overburden is deposited by a street right-of-way 100 feet wide or less.
- h. Upon the completion of any deposit of overburden material in any area, the deposit shall be covered with grass or other ground cover.

6. School, Public or Private (K-12) in a Residential District

- a. A Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along any side of the property abutting any residential use.
- b. A Type C2 street protective yard (see Sec. 7.2.4.B.) must be established along all property lines abutting a public right-of-way.

7. Self-Service Storage Facility in an CX- District

- a. A Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along all shared property lines, except for an adjacent self service storage, heavy industrial use, waste-related service or residential use.
- b. A Type B1 or B2 transitional protective yard (see Sec. 7.2.4.A.) must be established along all shared property lines abutting a residential use.
- c. A Type C1 or C2 street protective yard (see Sec. 7.2.4.B.) must be

established along all property lines abutting a public right-of-way.

8. Self-Service Storage Facility in an IX- District

- a. A Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along all shared property lines, except for an adjacent self service storage, heavy industrial use, waste-related service or residential use.
- b. A Type B1 or B2 transitional protective yard (see Sec. 7.2.4.A.) must be established along all property lines abutting a residential use.
- c. A Type C1 or C2 street protective yard (see Sec. 7.2.4.B.) must be established along all property lines abutting a public right-of-way.

9. Self-Service Storage Facility in an OP- District

- a. A Type B1 or B2 transitional protective yard (see Sec. 7.2.4.A.) must be established along all property lines abutting a residential use.

10. Telecommunication Tower (less than 250 feet)

- a. The area adjoining street rights-of-way shall contain a Type C1 or C2 street protective yard (see Sec. 7.2.4.B.) installed parallel to the street right-of-way. No protective yard is required along street frontage located a distance from the tower of more than 200% of the tower height.
- b. A protective yard that contains the same plantings required in a Type B1 or B2 transitional protective yard (see Sec. 7.2.4.A.) must be installed within all the yard areas required by Sec. 6.3.3.C.2.d.i.b) and Sec. 6.3.3.C.2.d.i.c). The installation of any fence, wall, planting or berm shall not reduce or lessen this requirement.

11. Telecommunication Tower (250 feet and more)

- a. The area adjoining street rights-of-way shall contain a Type C1 or C2 street protective yard (see Sec. 7.2.4.B.) installed parallel to the street right-of-way. No protective yard is required along street frontage located a distance from the tower of more than 200% of tower height.
- b. A protective yard that contains the same plantings required in a Type B1 or B2 transitional protective yard (see Sec. 7.2.4.A.) must be installed within all the yard areas required by Sec. 6.3.3.D.2.d.ii. or Sec. 6.3.3.D.2.d.iii. The installation of any fence, wall, planting or berm shall not reduce or lessen this requirement.

12. Towing Yards for Vehicles

- a. A Type B1 or B2 transitional protective yard (see Sec. 7.2.4.A.) must be established along all shared property lines, except for an adjacent heavy industrial use or waste-related service.
- b. A Type C1 or C2 street protective yard (see Sec. 7.2.4.B.) must be established along all property lines abutting a public right-of-way.

13. Vehicle Fuel Sales (including gasoline and diesel fuel) in a NX-, CX-, DX- or IX-District

- a. Where a fuel pump island is located within 100 feet of a Residential District or a residential use, a Type 2: Medium protective yard, in accordance with Sec. 3.5.3, must be established along the side or rear property lines if the property abuts a Residential District or a residential use. The protective yard must include a wall at least 6.5 feet in height.

14. Vehicle Repair (Commercial Vehicle, Major and Minor) except in IX- and IH-Districts

- a. A Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along all property lines abutting a residential use.

15. Vehicle Sales Use Category except in IH- District

- a. A Type A1 or A2 transitional protective yard (see Sec. 7.2.4.A.) must be established along all property lines abutting a residential use.
- b. All vehicular display area with frontage on any portion of a street right-of way (not including an alley) must be screened along the street edge by a Type C3 street protective yard under Sec. 7.2.4.B.

16. Warehouse and Distribution Use Category except in IH-District

- a. A Type B1 or B2 transitional protective yard (see Sec. 7.2.4.A.) must be established along all shared property lines, except for an adjacent warehouse and distribution use, heavy industrial use or waste-related service.
- b. A Type C1 or C2 street protective yard (see Sec. 7.2.4.B.) must be established along all property lines abutting a public right-of-way.

Section 6. Section 10.2.7.A.2.a. of the part 10 Raleigh Unified Development Ordinance, Miscellaneous Zoning Permits – Purpose and Applicability, is hereby amended by adding the following language as shown underlined as follows:

A change to a Permitted or Limited Use (excluding those with use Standards or use specific requirements that require a site plan to ensure compliance) where the Site Plan Group as shown in Section. 7.1.2.C, remains in the same group or decreases from:

Group C to any other group or

Group B to Group A, and

where the applicant does not propose any changes to the exterior of the building, or site, that require compliance with any requirement set forth in 10.2.8.B.4. Notwithstanding the foregoing, permitted signage may still be erected or altered.

Section 7. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

Section 8. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 9. This text change has been reviewed by the Raleigh Planning Commission.

Section 10. This ordinance has been adopted following a duly advertised legislative hearing of the Raleigh City Council.

Section 11. This ordinance has been provided to the North Carolina Capital Planning Commission as required by law.

Section 12. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code.

Section 13. This ordinance is effective 30 days after adoption.

ADOPTED:

EFFECTIVE:

DISTRIBUTION: Planning & Development – Young, Bowers, Ray, Rametta, Lobo, Stegall,
McDonald, Sheppard, Hodge
City Attorney – Tatum, Hofmann, York, Hargrove-Bailey
Department Heads
Transcription Svcs – Taylor

Prepared by the Department of Planning and Development